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STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
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BILL ANALYSIS

BILL NUMBER: SB 1525 (S-1)

TOPIC: Financial institutions; loan officers; provision relating to surety bond obligation for mortgage loan originators; modify. Amends secs. 3 & 29 of 2009 PA 75 Mortgage Loan Originator Licensing Act (MLOLA).

SPONSOR: Senator Randy Richardville

CO-SPONSORS: Senators: Tupac Hunter and Gretchen Whitmer

COMMITTEE: Banking and Financial Institutions

Analysis Done: November 5, 2010

POSITION

The Office of Financial and Insurance Regulation (OFIR) supports this legislation.

PROBLEM/BACKGROUND

In July of 2008, the Housing and Economic Recovery Act (HERA) of 2008 was signed into law. Title V of HERA is the Secure and Fair Enforcement Mortgage Licensing Act (SAFE). The SAFE act defines minimum national licensing standards for mortgage loan originators and requires states to adopt such provisions. The SAFE act requires applicants for state-licensed loan originator licenses to demonstrate financial responsibility, character and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originators will operate honestly, fairly and efficiently.

The MLOLA was written to bring Michigan into compliance with the SAFE act. Any person intending to originate mortgage loans in Michigan on or after July 31, 2010, must become licensed under MLOLA.

Section 29 of MLOLA effective July 31, 2009, requires all mortgage loan originators to submit a surety bond to OFIR. This surety bond requirement could be satisfied by an individual mortgage loan originator's (MLO) submission of a surety bond or by an employer's submission of a surety bond for each of their MLOs in their employment and subject to this act they employ.

The size of a surety bond depends on the principle amount of mortgage loans closed by each MLO in the previous year:

MLO individual surety bond	
Loan activity Level	**Bond Amount**
$12 million or less	$ 10,000.00
Over $12 million to less than $24 million	$ 25,000.00
Over $24 million	$ 50,000.00

While Michigan law currently allows a broker to obtain a bond for their MLOS, it doesn't cap the aggregate bond amount. Brokers buying bonds for their employees have been required to purchase unnecessarily large bonds.

DESCRIPTION OF BILL

Senate Bill 1525 (S-1) amends Sec. 29 of the MLOLA by adding a new schedule to cover all MLOs working for a company and is based upon the company's closed or modified loans from the preceding year.

MLOs covered under sponsoring company's surety bond	
Loan activity Level	**Bond Amount**
$12 million or less	$ 50,000.00
Over $12 million to less than $24 million	$150,000.00
Over $24 million	$250,000.00

The proposed legislation has rewritten the language addressing surety bonds for MLOs based upon the principle amounts of mortgage loans originated in the preceding year and no longer based upon principle amounts of mortgage loans closed in the preceding year.

MLO individual surety bond	
Loan activity Level	**Bond Amount**
$12 million or less	$ 10,000.00
Over $12 million to less than $24 million	$ 25,000.00
Over $24 million	$ 50,000.00

The bill also defines "originate" to mean the taking of a residential mortgage loan application or to offer or negotiate the terms of a residential mortgage loan for compensation or gain or the expectation thereof.

SUMMARY OF ARGUMENTS

Pro

Changes in the surety bond requirements will allow a company to submit one surety bond based on the principle amount of all their mortgage loan originations for the preceding year. They would no longer be required to submit a surety bond for each MLO. This will substantially lower a company's cost of doing business by allowing all of a broker's MLOs to originate loans under the company's surety bond versus having to secure an individual surety bond for each of its MLOs. In some cases it is much more cost effective for brokers to purchase bonds for their MLOs than to have them buy them individually, and this legislation would provide brokers with a reasonable means by which they could accomplish this goal without compromising consumer protection.

Defining what it is to "originate" a loan clears up ambiguity surrounding what activity falls within this act.

Con

None

FISCAL/ECONOMIC IMPACT

The OFIR has identified the following revenue or budgetary implications in this bill:

(a) To the Office of Financial and Insurance Regulation: None

Budgetary:

Revenue:

Comments:

(b) To the Department of Energy, Labor and Economic Growth: None

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan: None

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None

Comments:

OTHER STATE DEPARTMENTS

None known.

ANY OTHER PERTINENT INFORMATION

Some states surety bond requirements vary based on lender or broker status. Others are based on the federal department of Housing and Urban Development's approval of net worth or loan volume.

ADMINISTRATIVE RULES IMPACT

The OFIR would have rule making authority under the Administrative Procedures Act of 1969, 1969 PA 306, (MCL 24.201 – 24.32) as necessary to implement and administer this act.

KR

Ken Ross
Commissioner

11/9/10

Date